

anatomy. Museum A has the foremost collection of preparatory drawings related to Watkins' major painting, "The Surgeon and His Students." The painting is in the permanent collection of Museum B, located in the south of France, which has agreed to lend the painting for the exhibition. The exhibition will be shown at Museum B after the U.S. tour. American Universities, C and D, have also agreed to lend anatomical illustrations and drawings which show Watkins' development as a draughtsman. The exhibition and accompanying catalogue are expected to shed new light on Watkins contributions to art and scientific history.

DISCUSSION

Example 3 addresses the issue of whether the Federal Council will indemnify an exhibition even where the U.S. objects outnumber the foreign works. In determining whether to indemnify the entire exhibition, the Federal Council will evaluate the exhibition as a whole and the relationship of the foreign loans to the educational, cultural, historical and scientific significance of the exhibition. In this example, the exhibition promises to make important contributions not only to the history of art but also to the history of science. While there is only a single foreign work of art, it is clearly an essential component of the exhibition as a whole. The case for indemnification of the entire exhibition is further strengthened by the fact that a foreign masterpiece, which is closely related to the preparatory drawings and anatomical illustrations and drawings owned by American institutions, will be made available to the American public. Thus, the mere fact that the U.S. loans outnumber the foreign works will not in itself disqualify the entire exhibition for indemnification.

[60 FR 42466, Aug. 16, 1995]

§ 1160.5 Application for indemnification.

An applicant for an indemnity shall submit an Application for Indemnification, addressed to the Indemnity Administrator, National Endowment for the Arts, Washington, DC 20506, which shall described as fully as possible:

(a) The time, place, nature and Project Director/Curator of the exhibition for which the indemnity is sought;

(b) Evidence that the owner and present possessor are willing to lend the eligible items, and both are prepared to be bound by the terms of the indemnity agreement;

(c) The total value of all items to be indemnified, including a description of each item to be covered by the agreement and each item's value;

(d) The source of valuations of each item, plus an opinion by a disinterested third party of the valuations established by lenders;

(e) The significance, and the educational, cultural, historical, or scientific value of the items to be indemnified, and of the exhibition as a whole;

(f) Statements describing policies, procedures, techniques, and methods to be employed with respect to:

(1) Packing of items at the premises of, or the place designated by the lender;

(2) Shipping arrangements;

(3) Condition reports at lender's location;

(4) Condition reports at borrower's location;

(5) Condition reports upon return of items to lender's location;

(6) Security during the exhibition and security during transportation, including couriers were applicable;

(7) Maximum values to be transported in a single vehicle of transport.

(g) Insurance arrangements, if any, which are proposed to cover the deductible amount provided by law or the excess over the amount indemnified;

(h) Any loss incurred by the indemnitee or participating institutions during the three years prior to the Application for Indemnification which involved a borrowed or loaned item(s) or item(s) in their permanent collections where the amount of loss or damage exceeded \$5,000. Details should include the date of loss, nature and cause of damage, and appraised value of the damaged item(s) both before and after loss;

(i) If the application is for an exhibition of loans from the United States, which are being shown outside the United States, the applicant should describe in detail the nature of the exchange of exhibitions of which it is a part if any, including all circumstances surrounding the exhibition being shown in the United States, with particular emphasis on facts concerning insurance or indemnity arrangements.

§ 1160.6

45 CFR Ch. XI (10–1–96 Edition)

(j) Upon proper submission of the above required information an application will be selected or rejected for indemnification by the Council. The review criteria include:

(1) Review of educational, cultural, historical, or scientific value as required under the provisions of the Arts and Artifacts Indemnity Act;

(2) Certification by the Director of the United States Information Agency that the exhibition is in the national interest; and

(3) Review of the availability of indemnity obligational authority under section 5(b) of the Arts and Artifacts Indemnity Act (20 U.S.C. 974).

[Approved under OMB control number 3135-0094]

[56 FR 49848, Oct. 2, 1991; 56 FR 51842, Oct. 16, 1991. Redesignated at 60 FR 42465, Aug. 16, 1995]

§ 1160.6 Certificate of national interest.

After preliminary review the application will be submitted to the Director of the United States Information Agency for determination of national interest and issuance of a Certificate of National Interest.

[56 FR 49848, Oct. 2, 1991. Redesignated at 60 FR 42465, Aug. 16, 1995]

§ 1160.7 Indemnity agreement.

In cases where the requirements of §§ 1160.4 and 1160.5 have been met to the satisfaction of the Council, an Indemnity Agreement pledging the full faith and credit of the United States for the agreed value of the exhibition in question may be issued to the indemnitee by the Council, subject to the provisions of § 1160.7.

[56 FR 49848, Oct. 2, 1991. Redesignated at 60 FR 42465, Aug. 16, 1995]

1160.8 Letter of intent.

In cases where an exhibition proposed for indemnification is planned to begin on a date more than twelve (12) months after the submission of the application, the Council, upon approval of such a preliminary application, may provide a Letter of Intent stating that it will, subject to the conditions set forth therein, issue an Indemnity Agreement prior to commencement of the exhibition.

In such cases, the Council will examine a final application during the twelve (12) month period prior to the date the exhibition is to commence, and shall, upon being satisfied that such conditions have been fulfilled, issue an Indemnity Agreement.

[56 FR 49848, Oct. 2, 1991. Redesignated at 60 FR 42465, Aug. 16, 1995]

§ 1160.9 Loss adjustment.

(a) In the event of loss or damage covered by an Indemnity Agreement, the indemnitee without delay shall file a Notice of Loss or Damage with the Council and shall exercise reasonable care in order to minimize the amount of loss. Within a reasonable time after a loss has been sustained, the claimant shall file a Proof of Loss or Damage on forms provided by the Council. Failure to report such loss or damage and to file such Proof of Loss within sixty (60) days after the termination date as defined in § 1160.3(k) shall invalidate any claim under the Indemnity Agreement.

(b) In the event of total loss or destruction of an indemnified item, indemnification will be made on the basis of the amount specified in the Indemnity Agreement.

(c) In the event of partial loss, or damage, and reduction in the fair market value, as a result thereof, to an indemnified item, indemnification will be made on the basis provided for in the Indemnity Agreement.

(d) No loss or damage claim will be paid in excess of the Indemnification Limits specified in § 1160.11.

[56 FR 49848, Oct. 2, 1991. Redesignated at 60 FR 42465, Aug. 16, 1995]

§ 1160.10 Certification of claim and amount of loss to the Congress.

Upon receipt of a claim of total loss or a claim in which the Council is in agreement with respect to the amount of partial loss, or damage and reduction in fair market value as a result thereof, the Council shall certify the validity of the claim and the amount of such loss or damage and reduction in fair market value as a result thereof,

National Foundation on the Arts and Humanities

§ 1160.12

to the Speaker of the House of Representatives and the President pro tempore of the Senate.

[56 FR 49848, Oct. 2, 1991. Redesignated at 60 FR 42465, Aug. 16, 1995]

§ 1160.11 Appraisal procedures.

(a) In the event the Council and the indemnitee fail to agree on the amount of partial loss, or damage to, or any reduction in the fair market value as a result thereof, to the indemnified item(s), each shall select a competent appraiser(s) with evidence to be provided to show that the indemnitee's selection is satisfactory to the owner. The appraiser(s) selected by the Council and the indemnitee shall then select a competent and disinterested arbitrator.

(b) After selection of an arbitrator, the appraisers shall assess the partial loss, or damage to, or where appropriate, any reduction in the fair market value of, the indemnified item(s). The appraisers' agreement with respect to these issues shall determine the dollar value of such loss or damage or repair costs, and where appropriate, such reduction in the fair market value. Disputes between the appraisers with respect to partial loss, damage repair costs, and fair market value reduction of any item shall be submitted to the arbitrator for determination. The appraisers' agreement or the arbitrator's determination shall be final and bind-

ing on the parties, and agreement on amount or such determination on amount shall be certified to the Speaker of the House and the President pro tempore of the Senate by the Council.

(c) Each appraiser shall be paid by the party selecting him or her. The arbitrator and all other expenses of the appraisal shall be paid by the parties in equal shares.

[56 FR 49848, Oct. 2, 1991. Redesignated at 60 FR 42465, Aug. 16, 1995]

§ 1160.12 Indemnification Limits.

The dollar amounts of the limits described below are found in the guidelines referred to in § 1160.1 and are based upon the statutory limits in the Arts and Artifacts Indemnity Act (20 U.S.C. 974).

(a) There is a maximum amount of loss or damage covered in a single exhibition or an Indemnity Agreement.

(b) A sliding scale deductible amount is applicable to loss or damage arising out of a single exhibition for which an indemnity is issued.

(c) There is an aggregate amount of loss or damage covered by indemnity agreements at any one time.

(d) The maximum value of eligible items carried in or upon any single instrumentality of transportation at any one time, is established by the Council.

[56 FR 49848, Oct. 2, 1991. Redesignated at 60 FR 42465, Aug. 16, 1995]